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Convention on the Elimination of All Forms of Discrimination against Women

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Committee on the Elimination of Discrimination against Women

Concluding observations on the third and fourth periodic reports (submitted in a single document) of Algeria

Addendum

Information provided by Algeria in follow-up to the concluding observations*

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Note: The present document is being circulated in English, French and Spanish only.

* The present report is being issued without formal editing.

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1. In follow-up to the concluding observations of the Committee on the Elimination of All Forms of Discrimination against Women, which were issued during the review of the combined third and fourth periodic reports of Algeria in February and March 2012, and in accordance with paragraph 55 of the document containing the Committee's concluding observations, the measures taken by the Algerian Government to implement the recommendations contained in paragraphs 14 and 30 (a), (b) and (c) of the aforementioned document are as follows:

2. The Algerian Constitution recognizes the equality in rights and duties of all citizens.

3. Chapter 4, which deals with rights and freedoms, establishes the equality of citizens before the law. Article 29 provides that: "all citizens are equal before the law and cannot be discriminated against on the grounds of birth, race, sex, opinion or any other personal or social condition or circumstance".

4. At the international level, the State has demonstrated its respect of human rights by ratifying most regional and international legal instruments, including:

- The Universal Declaration of Human Rights;
- The Arab Charter on Human Rights;
- The African Charter on Human and Peoples' Rights;
- The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights;
- The Protocol of the Court of Justice of the African Union;
- The African Charter on Democracy, Elections and Governance;
- The International Covenant on Civil and Political Rights;
- The Optional Protocol (1) to the International Covenant on Civil and Political Rights;
- The International Covenant on Economic, Social and Cultural Rights;
- The Convention on the Political Rights of Women;
- The Convention on the Establishment of the Arab Women's Organization;
- The Convention on the Elimination of All Forms of Discrimination against Women.

5. By ratifying the Convention on the Elimination of All Forms of Discrimination against Women, Algeria not only made it a supranational standard with which it undertakes to comply, de jure and de facto,, but also adopted all the provisions of the Convention, except those to which it made reservations, which serve as essential reference points in the drafting of any legal text, whether a fundamental law or simply an administrative order.

6. Considerable efforts have been made since 1999, and a series of measures have been and continue to be undertaken to bring the entire legal arsenal related to the protection and promotion of women's rights into line with the conventions ratified by Algeria. The most recent concerns Organic Act No. 12-03 of 12 January 2012 on improving the prospects for female candidates to win seats in the elected assemblies, more than 30 per cent of which are reserved for women.

Points 13 and 14 (Reservations):

7. Algeria expressed reservations with regard to article 2, article 15, paragraph 4, and article 16 of the Convention on the Elimination of All Forms of Discrimination against Women at the time of its ratification by decree on 22 January 1996. The right of every State to express reservations is established in the 1969 Vienna Convention on the Law of Treaties. However, the reservations expressed by Algeria at the time of ratification of the Convention on the Elimination of All Forms of Discrimination against Women have no impact on the implementation of the other provisions of the Convention. Certain reservations may be withdrawn depending on changes in national legislation.

Article 2:

8. The reservation entered by Algeria was worded as follows: "The Government of the People's Democratic Republic of Algeria declares that it is prepared to apply the provisions of this article on condition that they do not conflict with the provisions of the Algerian Family Code."

9. It is expressly established that non-discrimination is one of the major principles enshrined in the Constitution, legislation and regulations that promote the exercise of the civil, political, economic, social and cultural rights of women in all spheres of national life, except those that conflict with the sharia, in particular with respect to inheritance, which is governed by divine rules followed by all Muslim countries. Those laws are peremptory, indisputable and unalterable.

10. Other noteworthy provisions include the constitutional principle laid down in article 29 of the Constitution, which establishes the equality of all citizens before the law without any discrimination on the grounds of birth, race, sex, opinion or any personal or social condition or circumstance, and article 31 of the Constitution, which stipulates that "the purpose of the institutions is to ensure the equality in rights and duties of all citizens".

11. It should also be noted that the reservation with regard to article 2 of the Convention has become somewhat invalid since 16 February 2014, when article 5 of the Criminal Code was amended and supplemented by articles 295 bis 1, 295 bis 2 and 295 bis 3. Those provisions were introduced in order to combat all forms of discrimination by individuals or legal entities.

Article 15, paragraph 4:

12. The reservation is worded as follows: "The Government of the People's Democratic Republic of Algeria declares that the provisions of article 15, paragraph 4, concerning the right of women to choose their residence and domicile should not be interpreted in such a manner as to contradict the provisions of chapter 4 (article 37) of the Algerian Family Code".

13. The reservation to article 15 of the Convention relating to the right to freedom of movement and the right to choose one's residence and domicile is, in fact, no longer valid, owing to the revision of the Family Code. Article 19 of Ordinance No. 05-02 of 27 February 2005 states that both spouses shall have broad discretion under the current Code to establish a marriage contract or a valid contract, which could contain any clause they deem necessary with regard to residence and the pursuit of a profession.

14. Moreover, there is no legal or regulatory provision containing restrictions as to the choice of the marital home. Article 44 of the Constitution establishes the right of each citizen to choose his or her place of residence and to move freely within the country.

15. It should also be noted that improvements in the educational and intellectual levels of women and in living standards, relating to the pursuit of a profession for many of them, have resulted in the introduction of new social and cultural mores. Indeed, it is not unusual for spouses to have two separate residences owing to the distant location of their workplaces.

Article 16:

16. The reservation is worded as follows: "The Government of the People's Democratic Republic of Algeria declares that the provisions of article 16 concerning equal rights for men and women in all matters relating to marriage, both during marriage and at its dissolution, should not contradict the provisions of the Algerian Family Code".

17. Owing to the amendments made to the Family Code by Ordinance No. 05-02 of 27 February 2005, the reservation to Article 16 of the Convention is, in fact, no longer valid. These amendments establish equality with regard to marital age, the relationship between husband and wife, and household management. Marriage by proxy has been abolished, along with the concept of the head of the family and the duty to obey (article 36). Property acquired by the woman during marriage is taken into account. Lastly, polygamy is subject to judicial review, thus invalidating the reservation to article 16.

18. **The Committee urges the State party:**

(a) **To prepare and adopt, as a matter of priority, legislation on violence against women, including domestic violence, taking into account the Committee's general recommendation No. 19 (1992);**

(b) **To stipulate in the Criminal Code the definition of rape, including marital rape and other sex crimes, to be defined as sexual offences committed in the absence of one's consent;**

(c) **To compile reliable data on the prevalence of domestic and sexual violence against women, the investigations, prosecutions, convictions and sentences imposed on perpetrators, and on the remedies, including compensation, provided for victims since 2005.**

19. Algerian legislation, in suppressing all forms of violence, makes no distinction with regard to "victims; in the mind of the legislator, there is no discrimination whatsoever between men and women.

20. The Criminal Code sets out penalties for acts of violence, depending on the circumstances and taking into account the seriousness of the consequences of those acts on the person, including sexual harassment, which is punishable under article 341 bis of the Criminal Code, amended in 2005.

21. An intersectoral commission was established in March 2014 to draft proposals for the amendment of the Criminal Code through the introduction of new provisions concerning violence against women.

22. The commission's final draft amendment to the Criminal Code was reviewed and adopted by the Council of Ministers, and the draft was adopted by parliament in March 2015.

23. The main changes were made to address all forms of violence against women, including domestic violence in its various forms, by setting out penalties for husbands who are found guilty of committing violence against their wives, and for acts of sexual violence committed in public and private places.

24. The new provision (266 bis) of the Criminal Code protects wives specifically against assault causing injury, loss of the use of a limb, permanent impairment or death. The penalties are proportionate to the damage caused and are more severe than those applied in ordinary situations.

25. Another new provision (226 bis 1) is included to criminalize domestic violence in which the perpetrator was culpably unrelenting, and which undermines the dignity of the woman and compromises her physical and mental well-being owing to its recurrent nature. Such violence may take on different forms: violent acts that do not leave visible injuries, intimidation and other disdainful behaviour.

26. Given that such violence is usually committed within the private sphere of the couple, the amendment calls for this form of violence to be proven by any means.

27. It is important to note that, for the new offences provided for in articles 226 bis and 266 bis 1 cited above, criminal responsibility may be assigned even if the marital relationship has been interrupted and even in cases where the perpetrator no longer lives with the victim. Furthermore, the perpetrator would not be able to rely on extenuating circumstances if the victim is pregnant or disabled, or if the offence was committed in the presence of minors or under the threat of a weapon.

28. With regard to economic violence, there are plans to amend article 330 concerning family abandonment, with a view to including wife abandonment, whether the wife is pregnant or not.

29. A new article (330 bis) is envisaged with a view to protecting the wife against actions intended to deprive the wife of her property or resources by means of restrictions or intimidation.

30. Accordingly, and with a view to ensuring compliance with the matrimonial regime based on the principle of separate ownership of property, there is a proposal to eliminate the possibility of exonerating circumstances being invoked in cases of rape between husband and wife and to allow criminal charges to be brought upon the mere filing of a complaint.

31. With regard to sexual violence, and in order to fill a legal void, it is proposed that a new offence (article 333 bis 2) be established to cover all forms of sexual assault that do not fall under indecent assault or rape.

32. A stiffening of penalties for sexual harassment (article 341 bis) and the extension of criminalization to cases where the perpetrator could potentially use his authority or position to commit the offence are also envisaged.

33. For both offences (sexual assault and sexual harassment), the penalty shall be doubled if the perpetrator is a close relative ("mahrem"), or if the victim is a minor, pregnant, ill or disabled.

34. Lastly, in an effort to address a phenomenon that reflects the deterioration of social values and the rise of disrespectful behaviour, a new article (333 bis 1) will provide for the criminalization of conduct that women endure in public places, most often in the form of verbal attacks or indecent assault. This crime shall attract a stiffer penalty when the victim is less than 16 years of age.

35. The text also includes penalties for the abandonment of a wife, whether she is pregnant or not, and for the punishment of pressure or intimidation intended to deprive the wife of her property.

36. Lastly, the draft includes penalties for violent acts that undermine the dignity of women in public places.

37. In addition, a law has been adopted to strengthen the protection of divorced women with the creation of an alimony and child support fund.

38. The creation of that fund, which was announced by the President of the Republic on 8 March 2015, International Women's Day, seeks to establish an additional legal tool to better protect the family.

39. That mechanism will be used in case of failure by a father or an ex-husband, as decided by the courts, to make alimony or support payments to his children or his ex-wife.

40. The State treasury will subsequently ensure that any alimony and support payments advanced though the above-mentioned fund are collected from the father or ex-husband There are penalties for any person who fails to comply or who makes false statements.

41. By strengthening the legislation that protects women and children, Algeria has once again demonstrated its commitment to respect human dignity, which is central to its spiritual values and is also among the priorities of contemporary international law.

42. It should also be recalled that the Government adopted a national strategy to combat violence against women in 2007. The review of implementation of that strategy is carried out by a national commission composed of representatives of various sectors, universities that have addressed the issue, associations that run shelters or centres for women, governmental institutions and organizations and the media. It should be borne in mind that non-governmental organizations play a key role in prevention by raising awareness of all forms of violence against women.

43. In its plan of action for the strategy, the commission has identified three priority areas for future action:

44. Assistance and support for women who are victims of violence:

- Collecting and analysing data stored in the information system on violence against women;
- Strengthening and supporting counselling centres and shelters for women who are victims of violence;
- Building the capacity of people working with women who are victims of violence in different sectors (social, health, justice);
- Strengthening family, social and professional reintegration activities.

45. Information and awareness-raising:

- Raising the awareness of women who are victims of violence of the need to bring the perpetrators of the violence committed against them to justice;
- Organizing information campaigns intended for men and young people of both sexes on the consequences of violence, the availability of legal recourse for female victims, and the possibility of obtaining compensation for harm suffered;
- Publishing materials to provide information on the legal and psychosocial protection provided to victims, shelters and counselling centres and professional and economic reintegration mechanisms for the women concerned, with a view to ensuring their economic empowerment.

46. Prevention through women's empowerment:

- Strengthening women's literacy;
- Ensuring the empowerment of women by continuing the process to enhance education, vocational training, access to employment, financial independence and the process that would enhance the reconciliation of family life and work.

47. The special attention paid by all partners involved in the handling of cases is reflected in the activities undertaken within that context, such as those organized on the occasion of International Day for the Elimination of Violence against Women, celebrated on 25 November each year. The organization throughout the year of international seminars and other national and local events to exchange relevant good practices should also be noted.

48. The Algerian Government has taken a series of measures to implement the strategy, including:

- The creation of a database on violence against women, with contributions from all concerned partners, with a view to coordinating efforts to improve the services afforded to women who are victims of violence;
- The formulation of a communication strategy to combat violence against women;
- The conduct of two studies relating to the collection, analysis, dissemination and use of data and information on violence against women;
- The production of a handbook on stakeholders involved in combating violence against women, including shelters a, which include facilities that offer guidance and counselling, and non-governmental organizations that provide psychosocial support;
- The training of responders to improve the care given to women who are victims of violence.

49. In this context, a collaborative project with the United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women), to train and improve the performance of local responders helping women experiencing social difficulties, including victims of violence, was implemented as a pilot in seven wilayas in eastern Algeria.

50. The agreement covers capacity-building for local actors with a view to improving their response, especially with regard to women who are victims of violence.

51. This project is intended for the members of the multidisciplinary teams operating within social work and solidarity agencies of the wilayas administered by the Ministry for National Solidarity, Family and the Status of Women. That national network of 403 professional psychologists, sociologists, doctors, administrators and legal experts is responsible for the reception, orientation, counselling and care of women in difficult circumstances, including women that are victims of violence across the 48 wilayas. The main task of these multidisciplinary teams is to promote family and social reintegration and professional and economic integration through various mechanisms established by the State.

52. In addition, a guide relating to the psychological care of women experiencing social difficulties, including victims of violence, and to the various social and economic integration mechanisms established by the State will, once finalized, be circulated in order to improve the care provided to those women.

53. Meant for personnel involved in this mechanism, the guide is currently being finalized following a series of extensive consultations with, inter alia, the Ministry of Labour, Employment and Social Security, the Ministry of Vocational Education and Training, the National Office for Literacy and Adult Education, the National Microcredit Management Agency and the Agency for Social Development.

54. One example of State support to associative initiatives in combating violence against women is the funding in 2013 of the development of a handbook entitled "Je m'alphabétise par la culture de la non-violence" (I'm learning to read and write through a culture of non-violence). The handbook was launched by the Algerian Association for Literacy (IQRAA) in an effort to combat violence, in particular violence committed against illiterate women who register for literacy courses. It handbook was published and distributed as part of a collaborative project with the United Nations Population Fund (UNFPA).

55. The National Centre for Research, Information and Documentation on Women, Family and Children, inaugurated in November 2013, also seeks to promote the participation of women in development through prospective studies and the analysis of research findings and recommendations from workshops and meetings organized in its fields of expertise.

56. The centre seeks mainly to make the findings of the studies and analyses available to governmental agencies and ministries in charge of developing and implementing national policy on the promotion of women and the protection of the family and children.

57. The long-term goal is to contribute to the empowerment of women and to support their role in development, further to improve the living conditions of the family and the protection of children, the basis of sustainable human development.

58. Lastly, in 2013 Algeria joined the 59 countries that had already been participating in the United Nations international campaign to end violence against women, adopting 15 of the 16 measures proposed by UN-Women in that regard.

59. It will continue its efforts by fostering family dialogue and sending out educational messages to introduce children to a culture of non-violence during early childhood and primary education.

60. Prospective studies will also be carried out to address the concerns of older women and teenage girls, who may be easy targets for perpetrators of violence. As long as such violence remains more a part of the social fabric than a mere occurrence, the success of the strategy will depend not only on how the victim's future is handled, but also on how the perpetrator's present circumstances are handled.